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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,652	07/07/2005	Rudolf Fux	785-012035-US (PAR)	8763
2512 PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824	7590 01/05/2007		EXAMINER TRUONG, THANH K	
			ART UNIT	PAPER NUMBER
			3721	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/516,652

Applicant(s)

FUX, RUDOLF

Examiner

Thanh K. Truong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11-29-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election **without** traverse of Group I, claims 1-3 and 5, in the reply filed on November 6, 2006 is acknowledged.
2. Claims 6-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 6, 2006.
3. Applicant's cancellation of claim 4 is acknowledged.

Drawings

4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are not of sufficient quality and thus it is difficult to decipher the claimed invention. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Failure to timely submit replacement drawing sheets will result in **BANDONMENT** of the application.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following figures mentioned in the description: 2c (page 8, line 31), 2d (page 9, line 2) and 2e (page 9, line 4).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: there is no description for figure 10 in the specification. Furthermore, figure 10 on page 25 has the label of "10/12", but there are only 10 pages of drawings.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, the phrase "preferably reclosably" in line 3, is vague and indefinite, because it is unclear what is the claimed limitation. It is unclear what is being included or excluded from the claimed limitation after the phrase "preferably reclosably".

Claim 1, the phrase "may be joined together" in line 2, is vague and indefinite, because it is unclear what is the claimed limitation – are the shells joined together or are the shells not joined together; "may be" implied that they may or may not.

Similarly, the phrase "may be opened and closed" in claim 2 is indefinite.

Claim 1, the recitation "wherein the recess takes the form of an elongate hole" is indefinite, because there is no support in the specification for this limitation. Furthermore, the drawing provided are not of sufficient quality and details, thus it is impossible to ascertain the claimed limitation as recited in the claim.

Claim 3, the phrase "a heat-sealing rim" is vague and indefinite, because there is no support for this claimed limitation in the specification.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 and 5 rejected under 35 U.S.C. 102(b) as being anticipated by Harmon (3,556,337).

Harmon discloses a thermally formed packaging comprising: two half-shells (20, 22), which are joined together and form a hollow article, the two shells joined together in

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a plane that is inclined relative to the horizontal (figure 2), extends substantially along the diagonal of the hollow article, a closure which takes the form of a projection with a recess complementary thereto (figures 1-3 - column 2, lines15-18).

Regarding claim 2, hinge (18, 18a) between the half-shells, for close and open the package.

Regarding claim 3 (as best understood), the two half-shells comprise a heat-sealing flanges (14, 16).

Regarding claim 5, the half-shells comprise stiffening ribs (34).

11. Claims 1-3 and 5 rejected under 35 U.S.C. 102(b) as being anticipated by Ryan (5,176,272).

Ryan discloses a thermally formed packaging comprising: two half-shells (12, 14), which are joined together and form a hollow article, the two shells joined together in a plane that is inclined relative to the horizontal (figures 1, 2, 4 & 5), extends substantially along the diagonal of the hollow article, a closure (24, 25) which takes the form of a projection with a recess complementary thereto (figures 1, 2, 4 & 5 - column 3, lines18-20).

Regarding claim 2, hinge (16) between the half-shells, for close and open the package.

Regarding claim 3 (as best understood), the two half-shells comprise a heat-sealing flanges (26, 28).

Regarding claim 5, the half-shells comprise stiffening ribs (20, 32).

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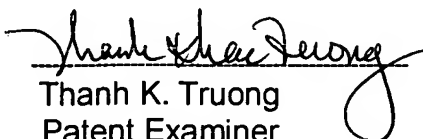
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Thanh K. Truong
Patent Examiner
December 26, 2006.